

#### REMARKS

After amendment, the pending claims are 7-10 and 12. Claims 1-6 and 14-21 are canceled as being drawn to non-elected subject matter. Applicant reserves the right to prosecute the non-elected claims in a divisional application filed during the pendency of the present application. Claims 11 and 13 are also canceled and the subject matter of these claims has been incorporated into claims 10 and 12, respectively.

Claims 10 and 12 are amended to clarify the present invention. Support for these amendments is found in the original specification and claims as filed and specifically on pages 13-14 of the specification. No new matter is added by these amendments.

#### Restriction Requirement

The Examiner has restricted the claims under 35 USC § 121 into seven groups and has required that Applicant elect a single invention from these groups.

Applicant has elected the claims of group III, i.e., claims 7-13, drawn to a method of modifying TALL-104 cells comprising culturing the cells in IL-15, without prejudice.

#### Species Election

The Examiner has issued the following two (2) requirements to elect one (1) species per requirement:

- (i) The Examiner has required that Applicant elect one cytokine production profile from claims 10 and 11.

To comply with the requirement to elect one (1) cytokine production profile, Applicant has elected the cytokine production profile which includes decreased expression of gamma interferon, with traverse. Applicant respectfully requests that the Examiner withdraw this requirement for the following reason:

Applicant asserts that in performing the method of the present invention, when TALL-104 cells are grown in the presence of IL-15 and stimulated with anti-CD3, cytokine expression is triggered. A cytokine profile is composed of changes in several cytokines expressed by the cells in the method of the present invention and includes

changes in GM-CSF, IL-10, TNF- $\alpha$ , TNF- $\beta$ , and IFN- $\gamma$ , among others. See, page 14, lines 1-26.

Expression of these cytokines is not changed in the alternative by the method of the present invention, but as a part of a profile. Therefore, it would not be meaningful to elect only one (1) cytokine production profile according to the Examiner's requirement. Applicant has therefore amended claim 10 to clarify that the cytokine profile is characterized by the change in expression of several cytokines.

Reconsideration of this requirement is requested.

- (ii) The Examiner has required that Applicant elect one phenotype from claims 12 and 13.

To comply with the requirement to elect one (1) phenotype, Applicant has elected the phenotype which includes increased expression of CD56, with traverse. Applicant respectfully requests that the Examiner withdraw this requirement for the following reason.

Applicant asserts that in performing the method of the present invention, when TALL-104 cells are grown in the presence of IL-15, phenotypes of the cells are affected. Specifically, as supported at page 13, lines 20-34, increased expression of the cytotoxic adhesion/activation marker CD56 and decreased expression of the adhesion molecule CD38 define a phenotype noted in the present invention.

Since the expression of these markers and molecules are not alternative phenotypes, but define the same phenotype caused by the method of the present invention, it would be impossible to elect only one (1) phenotype as required by the Examiner's requirement. Applicant has therefore amended claim 12 to clarify that the phenotype is characterized by the change in expression of both cytotoxic adhesion markers and molecules.

Reconsideration of this requirement is requested.

The Director is hereby authorized to charge any deficiency in any fees due with the filing of this paper or credit any overpayment in any fees to our Deposit Account Number 08-3040.

Respectfully submitted,

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